

Federal Communications Commission

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of)
)
Stephen Fowler)
d/b/a Exports R Us)
Pineville, Louisiana)

File No. EB-00-OR-104
NAL/Acct.No. X3262010

NOTICE OF APPARENT LIABILITY FOR FORFEITURE

Released: September 23, 2003

By the Enforcement Bureau, New Orleans Field Office:

I. INTRODUCTION

1. In this Notice of Apparent Liability for Forfeiture, we find that Stephen Fowler d/b/a Exports R Us (“Exports R Us”) has apparently violated Sections 2.803 and 2.815 of the Commission’s Rules (“Rules”) by marketing an unauthorized external radio frequency power amplifier.¹ We conclude that Exports R Us is apparently liable for forfeiture in the amount of seven thousand dollars (\$7,000).

II. BACKGROUND

2. Exports R Us operates an Internet Web site offering numerous external radio frequency power amplifiers for sale. The Internet Web address for this site is listed as ‘http://members.aol.com/_ht_a/CBs313/Index.html’.

3. On May 24, 2000, an agent from the Commission’s New Orleans Field Office (“Field Office”) ordered an external radio frequency power amplifier (Palomar White Face, Model 225) from Exports R Us for use in the United States for operation in the Citizens Band Radio Service.

4. On June 7, 2000, the Field Office received the external radio frequency power amplifier from Exports R Us.

¹ 47 C.F.R. § § 2.803, 2.815.

III. DISCUSSION

5. Section 2.803 of the Rules prohibits the marketing of radio frequency devices, including the sale or offer for sale of such devices, that do not conform to the Rules. Furthermore, Section 2.815(b) of the Rules states, “[a]fter April 27, 1978, no person shall manufacture, sell or lease, offer for sale or lease (including advertising for sale or lease), or import, ship, or distribute for the purpose of selling or leasing or offering for sale or lease, any external radio frequency power amplifier or amplifier kit capable of operation on any frequency or frequencies between 24 and 35 MHz.”²

6. The external radio frequency power amplifier received by the Field Office on June 7, 2000, amplified radio signals on 27.185 MHz.

7. Based on the evidence before us, we find that Exports R Us willfully³ violated Sections 2.803 and 2.815 of the Rules. Pursuant to Section 1.80 of the Rules,⁴ Guidelines for Assessing Forfeitures, the base forfeiture amount for importation or marketing of unauthorized equipment (radio frequency power amplifier) is \$7,000. In assessing the monetary forfeiture amount, we must also take into account the statutory factors set forth in Section 503(b)(2)(D) of the Communications Act of 1934 (“Act”), as amended, which include the nature, circumstances, extent, and gravity of the violation(s), and with respect to the violator, the degree of culpability, any history of prior offenses, ability to pay, and other such matters as justice may require.⁵ Applying Section 1.80 of the Rules and the statutory factors to the instant case, a \$7,000 forfeiture is warranted.

IV. ORDERING CLAUSES

8. Accordingly, **IT IS ORDERED THAT**, pursuant to Section 503(b) of the Act,⁶ and Sections 0.111, 0.311 and 1.80 of the Rules,⁷ Exports R Us is hereby **NOTIFIED** of their

² 47 C.F.R. §2.815(b)

³ Section 312(f)(1) of the Act, 47 U.S.C. § 312(f)(1), which applies to Section 503(b) of the Act, provides that “[t]he term ‘willful’, when used with reference to the commission or omission of any act, means the conscious and deliberate commission or omission of such act, irrespective of any intent to violate any provision of this Act” See *Southern California Broadcasting Co.*, 6 FCC Rcd 4387 (1991).

⁴ 47 C.F. R. § 1.80

⁵ 47 U.S.C. § 503(b)(2)(D).

⁶ 47 U.S.C. § 503(b).

⁷ 47 C.F.R. §§ 0.111, 0.311, 1.80.

APPARENT LIABILITY FOR A FORFEITURE in the amount of seven thousand dollars (\$7,000) for violating Sections 2.803 and 2.815 of the Rules, 47 C.F.R. § § 2.803, 2.815.

9. **IT IS FURTHER ORDERED THAT**, pursuant to Section 1.80 of the Rules, within thirty days of the release date of this **NOTICE OF APPARENT LIABILITY**, Exports R Us, **SHALL PAY** the full amount of the proposed forfeiture or **SHALL FILE** a written statement seeking reduction or cancellation of the proposed forfeiture.

10. Payment of the forfeiture may be made by credit card through the Commission's Credit and Debt Management Center at (202) 418-1995 or by mailing a check or similar instrument, payable to the order of the Federal Communications Commission, to the Forfeiture Collection Section, Finance Branch, Federal Communications Commission, P.O. Box 73482, Chicago, Illinois 60673-7482. The payment should note the NAL/Acct. No. X3262010

11. The response if any must be mailed to Office of the Secretary, Federal Communications Commission, 445 12th Street, S.W., Washington, D.C. 20554, ATTN: Enforcement Bureau – TPSD, NAL/Acct. No. X3262010, and must include the NAL/Acct. No. X3262010.

12. The Commission will not consider reducing or canceling a forfeiture in response to a claim of inability to pay unless the petitioner submits: (1) federal tax returns for the most recent three-year period; (2) financial statements prepared according to generally accepted accounting practices; or (3) some other reliable and objective documentation that accurately reflects the petitioner's current financial status. Any claim of inability to pay must specifically identify the basis for the claim by reference to the financial documentation submitted.

13. Requests for payment of the full amount of this Notice of Apparent Liability under an installment plan should be sent to: Chief, Credit and Debt Management Center, 445 12th Street, S.W., Washington, D.C. 20554.⁸

14. **IT IS FURTHER ORDERED THAT** a copy of this **NOTICE OF APPARENT LIABILITY** shall be sent by Certified Mail, Return Receipt Requested, to Stephen Fowler d/b/a Exports R Us, 5529 Monroe Hwy, Pineville, Louisiana 71360.

FEDERAL COMMUNICATIONS COMMISSION

James C. Hawkins
District Director

⁸ See 47 C.F.R. § 1.1914.

